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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,633	09/16/2003	Franz Deitering	11884/407601	9755
53000 7590 11/18/2009 KENYON & KENYON LLP 1500 K STREET N.W. WASHINGTON, DC 20005				
EXAMINER KARDOS, NEIL R				
ART UNIT 3623		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,633

Applicant(s)

DEITERING ET AL.

Examiner

Neil R. Kardos

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-22, 24-30 and 32-49 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 and 36-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 21, 22, 24-30 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a **FINAL** Office Action on the merits in response to communications filed on August 7, 2009. Currently, claims 1-11, 21, 22, 24-30, and 32-35 are pending and have been examined. Claims 14-20 and 36-49 have been withdrawn from consideration.

Response to Arguments

Applicant's arguments filed on August 7, 2009 have been fully considered but they are not persuasive. Applicant argues the following:

- (A) The cited references do not teach analyzing the E-survey results data to determine what data in the business information warehouse should be analyzed to set goals to meet strategic enterprise management (SEM) plan objectives.
- (B) The cited references do not teach responsive to determining an objective not being met, analyzing extracted E-survey results data to determine which of various areas related to questions being surveyed are not meeting expectations.

Applicant's arguments will now be addressed in turn.

- (A) **The cited references do not teach analyzing the E-survey results data to determine what data in the business information warehouse should be analyzed to set goals to meet strategic enterprise management (SEM) plan objectives.**

Regarding argument (A), Examiner respectfully disagrees. Havens discloses analyzing survey data to determine areas for improvement (see column 9: lines 36-40: "Knowledge worker

productivity assessments generated using relator 40 may communicate such concerns to appropriate individuals associated with the surveyed worker or workers in order to improve the productivity of the surveyed worker or workers."). In other words, Havens determines what data should be analyzed to set goals (see column 9: lines 23-42, disclosing determining areas for improvement based on specific survey data and its comparison to benchmark values). In Havens, a calculator compares survey data for a variety of data segments to benchmark data for those segments (see column 9: lines 4-8; see also figure 1, depicting a variety of data segments for evaluation). This comparison analysis is used to determine what data should be analyzed to improve worker productivity (see column 9: lines 23-42). Thus, Havens discloses this limitation.

Sanders also teaches the claimed limitation. Sanders discloses that survey data be used to develop input for strategic planning (see column 14: lines 31-40).

Furthermore, Might discloses this limitation. Might teaches analyzing survey results data to determine which issues to focus on for improvement based on which issues received the most positive or negative responses (see column 17: line 43 through column 18: line 5, disclosing analyzing responses and automatically alerting users of issues that are receiving a trend of positive or negative issues; column 17: lines 20-23, disclosing a similar concept; column 17: lines 3-6, disclosing allowing users to spot problems as they arise and take correction action; see also figures 12 and 14). Thus, Might teaches this limitation.

Finally, it is well-known to determine what goals to set based on survey results data. In strategic management, an organization must first determine "where it is" and "where it wants to be" in order to determine what strategies to employ in order to get there. It is well-known to employ surveys in determining where a company currently stands and what areas it can improve

upon to meet its goals (e.g. a SWOT survey, which analyzes organizational strengths, weaknesses, opportunities, and threats). Thus, the use of surveys to determine specific areas for improvement and goal-setting is well-known in the strategic management art (as well as many other areas of art). Examiner notes that, while not specifically relied upon to teach the independent claims, Nelson also teaches the claimed limitation (see column 4: lines 49-60, disclosing selecting a measurement option—including a specific outcome measurement category, a management topic, or a performance measure—and retrieving the appropriate data associated with the selected measurement option; see also figure 4: items 106-112). The claimed limitation is well known.

(B) The cited references do not teach responsive to determining an objective not being met, analyzing extracted E-survey results data to determine which of various areas related to questions being surveyed are not meeting expectations.

Regarding argument (B), Examiner respectfully disagrees. First, Havens at least suggests the claimed limitation. Havens teaches that when an objective is not being met (based on a comparison between survey data and benchmark data), alerting a user by communicating that data to the user (see column 9: lines 23-42). Sanders also teaches the claimed limitation. Sanders discloses linking a performance metric monitor (see column 14: lines 41-54) and survey feedback data (see column 14: lines 31-40; column 13: lines 3-30) to form clusters of information related to enterprise performance (see column 13: lines 25-30). Might also teaches the claimed limitation. Might discloses extracting survey data based on negative responses to

survey questions (see column 17: line 26 through column 18: line 5). Thus, the cited references teach the claimed limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7-11, 21, 22, 24-30, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (US 5,909,669) in view of Sanders (US 6,411,936) and Might (US 6,766,319), and further in view of Nation (US 2007/0203786).

Claim 1: Havens discloses a computer-implemented business objective evaluation method, comprising:

- generating a target group of users for a survey using a computer, wherein each user of the target group has a user profile stored in a database device (see col. 2: ln. 7-13, disclosing limiting survey-based assessments to selected workers; col. 4: ln. 18-41, disclosing targeting workers, peers, managers, and supervisors; col 5: ln. 58-61; col. 6: ln. 4-17, disclosing worker profiles; col. 11: ln. 28-49);
- aggregating survey results data with other business data into a business information warehouse, wherein the other business data is acquired via means other than the survey (see figure 2: items 12-18; col. 6: ln. 18-57, disclosing aggregating survey results data with benchmark data);

- analyzing the survey results data to determine what data in the business information warehouse should be analyzed to set goals to meet strategic enterprise management (SEM) plan objectives (see column 9: lines 36-40: "Knowledge worker productivity assessments generated using relator 40 may communicate such concerns to appropriate individuals associated with the surveyed worker or workers in order to improve the productivity of the surveyed worker or workers"; column 9: lines 23-42, disclosing determining areas for improvement based on specific survey data and its comparison to benchmark values; column 9: lines 4-8; see also figure 1, depicting a variety of data segments for evaluation);
- receiving an indicator of business performance via an input device of the computer (see col. 6: ln. 58 through col. 7: ln. 5; col. 7: ln. 22-57; col. 8: ln. 10-25; col. 12: ln. 17-27; col. 1: ln. 14-22 and 27-29);
- responsive to the indicator of business performance, extracting a segment of survey results data corresponding to the indicator (see col. 6: ln. 58 through col. 7: ln. 5; col. 7: ln. 22-57; col. 8: ln. 10-25; col. 12: ln. 17-27; col. 1: ln. 14-22 and 27-29)
- comparing the extracted segment to an aggregate set of survey results data (see col. 6: ln. 33-57; col. 8: ln. 10 through col. 9: ln. 22, describing the comparator; col. 13: ln. 38-55);
- identifying any survey results data from the extracted segment that statistically differ from responding results data from the aggregate set by a predetermined

- amount (see col. 7: ln. 36-49; col. 8: ln. 26-49; col. 9: ln. 9-43, disclosing identifying disparities with respect to a standard deviation);
- linking the identified statistically different survey results data to business key values in the business information warehouse (see col. 7: ln. 22-57; col. 8: ln. 26 through col. 9: ln. 43; Specifically, col. 9: ln. 23-43, disclosing linking disparities to productivity);
 - responsive to determining an objective not being met, analyzing extracted survey results data to determine which of various areas related to questions being surveyed are not meeting expectations (see column 9: lines 23-42).

Havens does not explicitly disclose E-surveys. However, Examiner takes Official Notice that E-surveys were old and well-known in the art at the time the invention was made. Thus, the elements and their functions are known in the prior art, albeit in separate references (or in this case, the Havens reference and Official Notice). The difference between the claimed subject matter and the prior art rests not on any individual element or function, but on the combination itself. That is, in the substitution of E-Surveys as known in the art for paper surveys as disclosed by Havens. The simple substitution of one known element for another producing a predictable result renders the claim obvious.

Havens also does not explicitly disclose determining whether objectives of strategic enterprise management planning are being met. However, presumably the worker productivity assessment described by Havens is undertaken in order to improve worker productivity, which would likely be an objective of a strategic management plan (thus, Havens at least suggests this limitation). Sanders discloses using surveys (see e.g. col. 13: ln. 6-15; col. 14: ln. 5-10) in

conjunction with performance metrics (see e.g. col. 14: ln. 41-54) and key value drivers (see e.g. col. 12: ln. 28-57) in order to meet strategic planning objectives (see e.g. col. 2: ln. 5-23; fig. 5: item 509; col. 13: ln. 45-49; col. 14: ln. 31-54; col. 15: ln. 4-17). Havens and Sanders both relate to improving a business through the use of surveys. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the methodology of Havens to determine whether strategic objectives are being met, as taught by Sanders. One of ordinary skill in the art would have been motivated to do so for the benefit of improving productivity and efficiency (see Sanders: col. 8: ln. 18-22).

Further, Havens does not explicitly disclose determining each user of the target group having access to the E-survey by comparing, by the computer, a class identifier with each user profile. Might teaches this limitation. (see figures 4-5; column 3: lines 44-46; table 1; column 14: lines 1-19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the methods taught by Might to control who has access to the surveys of Havens. One of ordinary skill in the art would have been motivated to do so for the benefit of obtaining only relevant survey responses.

Finally, Havens does not explicitly disclose wherein the other business data includes sales data, turn over rate, and illness rate. Nation discloses aggregating survey data and other data (see e.g. ¶ 92), wherein the data includes sales data (see table 1: "Performance Management" Category: "Revenue/Employee" Metric Title), turn over rate (see table 1: "Employee Satisfaction" Category: "Turnover" Metric Title), and illness rates (see table 1: "Performance Management" Category: "Sick days" Metric Title). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the data disclosed

by Nation with the survey methodology of Havens. One of ordinary skill in the art would have been motivated to do so for the benefit of obtaining the most relevant data and to receive accurate results. Furthermore, this combination of known elements retains the functionality of the separate elements and produces a result that would be predictable to one of ordinary skill in the art.

Claim 2: Havens discloses wherein the indicator identifies an organizational unit of a business experiencing anomalous performance (see col. 7: ln. 22-57, disclosing segmenting parameters of surveys via numerical range; col. 8: ln. 26 through col. 9: ln. 8).

Claim 3: Havens suggests wherein the indicator identifies a period of time (see col. 1: ln. 27-29).

Claim 5: Havens discloses wherein the indicator is a key performance indicator (see col. 7: ln. 22-57, disclosing segmenting parameters of surveys including worker criteria and information criteria).

Claim 7: Havens discloses wherein the indicator is an employee satisfaction indicator (see at least col. 4: ln. 33-37).

Claim 8: Havens discloses wherein the aggregate set is survey results data for a business and the extracted segment is a portion of the aggregate set (see col. 6: ln. 18-57).

Claim 9: Havens suggests wherein the aggregate set is survey results data for a market in which the business participates (see col. 1: ln. 19-22; col. 6: ln. 18-57).

Claim 10: Havens discloses comparing the extracted segment of survey results data to historical data (see col. 6: ln. 33-39).

Claim 11: Havens discloses comparing the extracted segment of survey results data to external benchmarks (see col. 6: ln. 18-57).

Claims 21, 24, 27, and 30: Claims 21, 24, 27, and 30 are substantially similar to claim 1, except that they are directed to a system. Havens discloses such a system (see e.g. figure 2; col. 10: ln. 9-22). Thus, claims 21, 24, 27, and 30 are rejected under similar rationale as claim 1.

Claim 22: Havens does not explicitly disclose wherein the output manager is to permit access to the generated result based on pre-determined access rights. However, Examiner takes Official Notice that it was well-known in the arts at the time the invention was made to grant permission to information based on access rights (e.g. via a login password). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the information reported in Havens by using pre-determined access rights as is well-known in the art. One of ordinary skill in the art would have been motivated to do so for the benefit of increased security.

Claim 25: Claim 25 is substantially similar to claim 8 and is rejected under similar rationale.

Claim 26: Claim 26 is substantially similar to claim 9 and is rejected under similar rationale.

Claim 28: Claim 28 is substantially similar to claim 10 and is rejected under similar rationale.

Claim 29: Claim 29 is substantially similar to claim 11 and is rejected under similar rationale.

Claims 32 and 34: Claims 32 and 34 are substantially similar to claims 3 and 5, respectively, and are rejected under similar rationale.

Claims 4, 6, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havens in view of Sanders, Might, and Nation, and further in view of Nelson (US 7,233,908).

Claims 4 and 6: Havens, Sanders, and Might do not explicitly disclose wherein the indicator identifies a geographic region (claim 4) or customer satisfaction (claim 6).

Nelson discloses wherein the indicator identifies a geographic region (see col. 5: ln. 60-62, disclosing comparing regions; figure 9: item 292; col. 6: ln. 6, disclosing comparing satisfaction by site) and wherein the indicator is a customer satisfaction indicator (see figures 8 and 11).

Havens, Sanders, Might and Nelson are all directed to conducting surveys for evaluative purposes. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the indicators taught by Nelson for the purpose of comparative evaluations as taught by Havens. One of ordinary skill in the art would have been motivated to do so for the benefit of increased flexibility and adaptability in the comparison process.

Claims 33 and 35: Claims 33 and 35 are substantially similar to claims 4 and 6, respectively, and are rejected under similar rationale.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
Examiner
Art Unit 3623

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